

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AMERICAN SOCIETY FOR THE  
PREVENTION OF CRUELTY TO ANIMALS,

Plaintiff,  
v.

THE ANIMAL AND PLANT HEALTH  
INSPECTION SERVICE and THE UNITED  
STATES DEPARTMENT OF AGRICULTURE,

Defendants.

19 Civ. 3112 (NRB)

**STIPULATION AND ~~PROPOSED~~ PROTECTIVE ORDER**

Subject to the Court’s approval, Plaintiff American Society for the Prevention of Cruelty to Animals (“ASPCA”), by and through its counsel, and Defendants the Animal and Plant Health Inspection Service and the United States Department of Agriculture (“Defendants”), by and through their counsel, hereby stipulate to the following protective order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure.

1. Pursuant to 5 U.S.C. § 552(a)(4)(E), the ASPCA seeks to recover attorney fees and litigation costs expended on the above-captioned Freedom of Information Act action. To this end, ASPCA has served Defendants with a document itemizing the attorney fees and litigation costs it deems to be recoverable (the “Fee Schedule”). The Fee Schedule contains attorney-client privileged information in its descriptions of tasks performed by the ASPCA and by outside counsel for the ASPCA (the “Privileged Information”) and the Privileged Information has been redacted from the version of the Fee Schedule produced to Defendants.

2. Defendants have requested a version of the Fee Schedule without redactions so that

they can review the Privileged Information therein and assess ASPCA's request for attorneys' fees. The ASPCA will provide Defendants with an unredacted copy of the Fee Schedule subject to the following terms.

3. The disclosure of Privileged Information in the Fee Schedule (or any subsequent documents itemizing ASPCA's attorneys' fees and litigation costs) does not constitute a waiver of attorney-client privilege, work product privilege or any other applicable privilege that pertains to ASPCA's communications.

4. The unredacted Fee Schedule (and any subsequent documents itemizing ASPCA's attorneys' fees and litigation costs that also contain Privileged Information) shall be maintained by Defendants on an "Attorneys' Eyes Only" basis and, as such, may be used only for purposes of this action and shall not be disclosed by Defendants to any persons other than the following:

- a. The attorneys for Defendants who have filed an appearance in this action, and any employees of Defendants or the Department of Justice who are involved in the process for determining Defendants' response to Plaintiff's attorney's fees demand(s) in this action;
- b. Any expert or consultant expressly retained by any attorney described in Paragraph 4(a), with disclosure only to the extent reasonably necessary to perform such work;
- c. The Court, jury, court personnel, court reporters, and other persons connected with the Court; and
- d. Any other person whom ASPCA agrees may have access.

5. Defendants will not file Privileged Information from the Fee Schedule on the public docket unless it first obtains permission to do so from ASPCA or leave from the Court.

6. This Stipulation and Protective Order may be changed only by further agreement of

the parties in writing or by an order of the Court. This Stipulation and Protective Order shall remain in full force and effect until modified, superseded, or terminated either by consent of the parties, or by order of the Court.

Dated: June 6, 2023

STIPULATED AND AGREED BY:

/s/ Bonnie Weiss McLeod  
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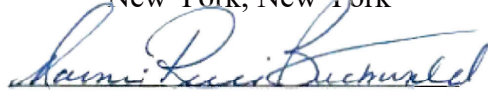
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*Attorney for Defendants*

SO ORDERED:

Dated: June 7, 2023

New York, New York

A handwritten signature in blue ink, appearing to read "Naomi Reice Buchwald", is written over a horizontal line.

NAOMI REICE BUCHWALD

United States District Judge